IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CM No.6212 of 2007 and
C.W.P. No.14262 of 2004
Date of Decision: 4.3.2008

Dhanpat Ram .....Petitioner

Vs.

State of Haryana and others ...Respondents

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CORAM : HON'BLE MR.JUSTICE RAJIVE BHALLA

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Present : Mr.B.K. Bagri, Advocate for the petitioner.
Mr.Ajay Chaudhary,DAG, Haryana.

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RAJIVE BHALLA, J (Oral)

C.M No.6212 of 2007

Prayer in this application is for early hearing of the writ petition, on the plea that the controversy in the present writ petition is squarely covered by a judgement of the Hon'ble Supreme Court reported as **Commissioner and Secretary to Govt. of Haryana and others V. Ram Sarup Ganda and others , 2007(2) SCT 476.**

C.M. is allowed.

At the request of counsel for the petitioner and as counsel for the State of Haryana has no objection, the main writ petition is taken up for hearing.

C.W.P. No.14262 of 2004

The petitioner prays for issuance of a writ in the nature of Certiorari, for quashing the order dated 10.8.2004 (Annexure P-1) passed

by the Accounts Officer, whereby the petitioner has been denied the grant of Assured Career Progression Scales (ACP Scales) on the completion of 10/20 years of service on a Class III (Group D) post, on the ground that the petitioner is a promotee and not a direct recruit and his junior have been granted the said benefit, as they are direct recruits.

I have heard learned counsel for the parties and perused the writ petition.

Counsel for the parties are ad-idem that the controversy in the present writ petition is squarely covered by a judgement of the Hon'ble Supreme Court reported as **Commissioner and Secretary to Govt. of Haryana and others V. Ram Sarup Ganda and others (supra)**, wherein while considering a similar controversy, the Hon'ble Supreme Court held as follows :-

> "Rule 9 quoted above only says that the senior Government servants, who are direct recruits are not entitled to get any stepping up in case any anomaly arises regarding the receipt of lesser pay by them. However, the same is not applicable to the respondents herein who joined the service as Group `D' employees and later got promotion to Group `C' post by selection. If there is any anomaly to the effect that the senior Government servants are receiving lesser pay than their juniors, who entered the service from a different source of recruitment, certainly such senior Government servants are entitled to stepping up of their pay in order to bring them on par with the salary which is being received by their juniors. There is no clause in the scheme which prohibits such stepping up of salary

which is a common practice applicable to all Government employees in case there is anomaly in the pay structure of the employees. By the impugned judgement, the High Court has held that the respondents are entitled to get the ACP scales that are applicable to Group `C' post, but the Rules, as such, do not provide for that. The Rules say, that if there are already two upgradations, then the concerned employees are not entitled to the benefit of ACP scales. Neverheless, if ACP scales are higher, they are certainly entitled to the ACP scales at the starting point. The date of giving such ACP scales is the date of entry into the service and though these respondents are entitled to get ACP scales and get fixation of the ACP scales as applicable to Group `D' employees and in case there are anomalies to the effect that they receive lesser pay than their juniors working in the same cadre/post, such senior Government servants are entitled to step up of their salary to get it on par with the salary which is being received by their juniors. In the result, all the appeals are partly allowed. The appellants shall revise the pay scales of the respondents. In case of any anomaly, if the employees who, on fixation of ACP scales are in receipt of lesser salary than their juniors in the same cadre/post, then their salary shall be stepped up accordingly. Revised orders shall be passed within a period of two months of the receipt of the copy of this order by the Government."

In view of what has been stated herein above, the present writ petition is disposed of in terms of the order passed by the Hon'ble Supreme Court in **Commissioner and Secretary to Govt. of Haryana and others V. Ram Sarup Ganda and others (supra)**.

4.3.2008 (RAJIVE BHALLA)
GS JUDGE